IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 330 of 2002
with
Civil Application No.5517 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RASHMIBHAI KANTILAL CHOKSHI

Versus

VRAJBHUMI SEVA SANSTHA

Appearance: MR KS JHAVERI for appellant Nos. 1-4
MR KM PATEL for Respondent No. 1, 2, 3, & 4
MR DAKSHESH MEHTA for Respondent No. 5-8

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/01/2003

ORAL JUDGEMENT

Appeal is admitted. Mr.Jhaveri seeks leave to delete respondents 9 and 10, as, according to him, they are not necessary parties for the purpose of deciding this Appeal from Order. Mr.K.M. Patel appears and waives service of notice of admission of the appeal from Order on behalf of respondents 1, 2, 3, and 4. Mr. Dakshesh Mehta appears and waives service of notice of

admission of the Appeal from Order on behalf of respondents 5 to 8.

With the consent of the parties, this Appeal from Order is taken up for hearing today.

The appellants herein are the original plaintiffs of Civil Suit No.3745 of 1998, which is pending in the City Civil Court at Ahmedabad. The case of the plaintiffs is that they are the residents of Ahmedabad and they belong to Vaishnav Community. According to the plaintiffs, they are deeply religious persons, having spiritual interest. The defendant No.1 is a Public Trust, duly registered under the provisions of the Bombay Public Trusts Act. Defendants 2, 3 and 4 are the Trustees of the Trust. Defendant No.1 has established one Haveli in Vrajbhumi, behind Sanjay Apartment, Ambavadi, Ahmedabad 380 015. The said Haveli is situated in Flat No.007 in a Complex, known as 'Vrajbhumi'. The trust is carrying on various kinds of religious ceremonial activities, and various religious festivals are also celebrated there. The plaintiffs are also taking part in Puja and other religious ceremony performed in the said Haveli. However, it seems that there is some dispute between defendants 1 to 4 and defendants 5 to 8 and, according to the plaintiffs, defendants 1 to 4 are trying to change the said Haveli and deity from the aforesaid flat to some other area. The plaintiffs, therefore, filed the aforesaid suit for a declaration and injunction and in the said suit, interim injunction was also prayed for by the plaintiffs to the effect that defendants 1 to 8 may be restrained from preventing and obstructing the plaintiffs or other devotees from offering their Darshan and Seva Puja, in Flat No.007, in the Haveli in Vrajbhumi, behind Sanjay Apartment, Ambavadi, Ahmedabad 380 015. In the said suit, a permanent injunction is prayed for on the same lines.

The trial court, by the impugned order, rejected the prayer for injunction and ad interim relief, which was granted in the suit was vacated by the learned trial Judge by the impugned order. The said order of the trial court is impugned at the instance of the original plaintiffs by way of this Appeal from Order.

At the time of hearing of this Appeal from Order, Mr.K.M.Patel, learned Advocate, who is appearing for respondents 1 to 4, has fairly submitted that the said

defendants are not going to obstruct any of the devotees from offering their Seva Puja and Darshan at the Haveli. Mr.Mehta, who is appearing for respondents 5 to 8, has fairly submitted, after taking instructions from his respective clients, that the said defendants will not obstruct the present plaintiffs or such other devotees from offering their Darshan and Seva Puja at the Haveli. However, it is pointed out that since there was some annoyance and nuisance to the neighbouring people, an attempt was made to see that the devotees may not be allowed to offer their seva puja or darshan by creating so-called nuisance in the nature of noise pollution or by parking of vehicles. He further submitted that till the suit is decided, the defendants 5 to 8 will not obstruct the devotees from offering their seva puja and attending the Haveli for the purpose of offering darshan. In view of the aforesaid statement of Mr.Mehta, who is appearing for the contesting defendants, and in view of the consensus prevailing between the parties, I dispose of this Appeal from Order by giving the following directions :-

Respondents 1 to 8 herein are restrained from obstructing the plaintiffs from attending the Haveli for the purpose of offering Seva Puja as well as attending all other religious festivals organized by the Trust. At the time of attending the Haveli, the plaintiffs and such other devotees may park their vehicles in such a manner that it may not create any obstruction to the nearby occupiers so that the occupiers may be allowed to use the passage and the surrounding area for the purpose of their convenience. Both the sides have assured the Court that proper atmosphere will be maintained by the concerned parties so that there may not be any hindrance to the religious activities carried on by the plaintiffs and other such devotees, as, ultimately, the plaintiffs and such devotees are interested only in offering their seva puja and taking part in the religious activity organized by the Trust in the aforesaid Haveli.

The Appeal from Order is disposed of accordingly on the aforesaid lines and the order of injunction which is granted herein in this Appeal from Order be continued till the suit is decided. In the facts and circumstances of the case, Civil Suit No.3745 of 1998 pending in the City Civil Court, Ahmedabad is expedited and the said suit is ordered to be decided as early as possible and latest by 31st December, 2003. Appeal is accordingly disposed of.

In view of the above order in the appeal from

order, no order in the Civil Application.

28th January, 2003 (P.B. Majmudar, J.)

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(apj)